

## **REMARKS**

Claims 1-17 are all the claims pending in the application. Claims 3, 4 and 11-17 are withdrawn. Claims 1, 11 and 14-17 have been amended to improve their form.

No new matter has been added. Entry of the Amendment is respectfully submitted to be proper. Upon entry of the Amendment, claims 1-2 and 5-10 will be all the claims pending in the application.

### **I. Applicant's Response to Election/Restriction Requirement**

Applicant respectfully submit that claims 1, 2, and 5-10 are readable on Species I. According to the Election of Species Requirement dated October 26, 2007, claims 1, 2, 5-6 and 7-10 are readable on Species I, directed to fibers having a flat shap and obtained by a process with a catalyst of mixture (1). (See Election of Species Requirement, page 3, paragraph 3). In response to the Election of Species Requirement, Applicants elected Species 1, but inadvertently stated that claims 1, 2, 5-7 and 10 are readable on the species. This was an inadvertent error.

As indicated in the Election of Species Requirement and in view of Applicant's election of Species 1 based on said requirement, Applicant respectfully submits that claims 1, 2, 6-6 and 7-10 are readable on Species 1. Accordingly, Applicant respectfully requests consideration and examination all of claims 1, 2 and 5-10.

### **II. Response to Rejection Under 35 USC 103(a)**

Claims 1, 2, 5-7 and 10 were rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over JP 63-154204 to Nakamura ("JP '204") in view of U.S. Patent 6,593,447 ("Yamamoto") and in further view of U.S. Patent 4,254,018 ("Kowallik").

Applicant traverses and respectfully requests that the rejection be withdrawn in view of the following remarks.

As an initial matter, the Examiner asserted that JP 63-154204 to Nakamura was cited by Applicant. However, it appears that the Examiner is referring to JP 63-12737, not JP 63-154204.

The JP 63-12737 document ("JP '737") discloses a polyester fiber having a lateral cross section of a form having two or more round cross-sectional shapes joined in the lengthwise direction. However, the JP '737 document does not describe, teach or suggest a polyester fiber produced by polycondensation using a specific catalyst system, or that such a polyester fiber, when its cross-section is modified, provides polyester fibers having satisfactory color tone, high quality and no fluff.

Yamamoto discloses the use of a reaction product of a specific titanium compound and a specific phosphorus compound as a catalyst for polyester. However, the phosphorus compounds used in Yamamoto are acids including phosphonic and phosphinic acids. (See U.S. Patent 6,593,447, column 6, line 66 to column 7, line 51). The phosphorus compounds in Yamamoto are completely different from the phosphorus compound, i.e. phosphonoacetate esters, recited in formula (III) in the present claim 1. Further, Yamamoto does not describe, teach or suggest that such a polyester fiber, when its cross-section is modified, provides polyester fibers having satisfactory color tone, high quality and no fluff. Therefore, even a skilled person would not be motivated to apply phosphonic and phosphinic acids to a polymerization catalyst for polyesters.

Kowallik discloses a phosphonate compound as a heat stabilizing agent for polyesters. However, a heat stabilizing agent is completely different from a polymerization catalyst. Further, Kowallik does not describe or suggest that such a polyester fiber, when its cross section

is modified, provides polyester fibers having satisfactory color tone, high quality and no fluff. Therefore, even a skilled person would not be motivated to apply the phosphonate compound disclosed as a heat stabilizing agent to a polymerization catalyst for polyesters.

As mentioned above, none of the cited references describe, teach, suggest or provide an apparent reason to use the specific titanium compound and the specific phosphorus compound recited in present claim 1 as a catalyst for polyester, or that the obtained polyester fiber, when its cross-section is modified, provides polyester fibers having satisfactory color tone, high quality and no fluff. Accordingly, even a person skilled in the art could not arrive at the present invention on the basis of the JP '737 document in view of Yamamoto and in further view of Kowallik.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1, 2, 5-7 and 10 based on the JP '737 document in view of Yamamoto and in further view of Kowallik.

### **III. Response to Double Patenting Rejections**

Claims 1-5 were rejected on the ground of non-statutory obviousness-type double patenting as assertedly being unpatentable over claims 1-6 of U.S. Patent 7,087,299.

Claims 1-5 were rejected on the ground of non-statutory obviousness-type double patenting as assertedly being unpatentable over claims 1-8 of U.S. Patent 7,189,797.

Applicant, in response to the double patenting rejection submits a Terminal Disclaimer, over U.S. Patent 7,087,229 and U.S. Patent 7,189,797.

Accordingly, Applicant respectfully requests consideration of the Terminal Disclaimers and in view of the Terminal Disclaimer, withdrawal of the double patenting rejection of claims 1-5.

**IV. Response to Provisional Double Patenting Rejection**

The Office Action indicated that a provisional obviousness-type double patenting rejection of claims 1-5 was made as assertedly being unpatentable over Application No. 10/541,574 and 10/535,419.

Applicant respectfully request that the rejection be held in abeyance until allowable subject matter has been indicated in one of the applications of concern.

**V. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the local Washington, D.C. telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

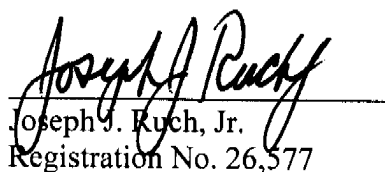
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**23373**

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